

REMARKS

In this response, Applicant does not amend any claims. Applicant cancels claims 14-47. Applicant does not add any new claims. Accordingly, claims 1-13 and 48-60 are pending.

I. Claims Rejected Under 35 U.S.C. §102(b)

The Patent Office rejects claims 1-5, 12, 13, 48-51, 53-56, 59 and 60 under 35 U.S.C. §102(b) as being anticipated by U. S. Patent No. 4,192,302 to Boddie ("Boddie"). In order to anticipate a claim, the relied upon reference must disclose every limitation of the claim.

Among other limitations, independent claim 1 requires a system for fluid isolation in a biological mass that includes a delivery conduit for administering a fluid adjacent to or upstream to the biological mass, and a collection conduit for acquiring the administered fluid. Similarly, claim 48 requires a fluid to be administered to the biological mass through the delivery conduit, and reclaimed by the collection conduit, wherein the system achieves fluid isolation in the biological mass between the upstream channel.

Boddie teaches a system that is related to a heart lung machine for "perfusion" which allows fluid to come into the system from the body upstream of the inlet and pass to the body past the outlet of the system.

On the other hand, the Patent Office has not identified and Applicant is unable to find any teaching in Boddie of isolating an administered fluid between an upstream delivery conduit location and a downstream collection conduit location (for acquiring or reclaiming the administered fluid), as required by the limitations of independent claims 1 and 48 noted above. Hence, Applicant respectfully request that the Patent Office withdraw the rejection of independent claims 1 and 48 under 35 U.S.C. § 102(b) as being anticipated by Boddie for at least the first reason identified above.

Second, independent claims 1 and 48 require a collection conduit to be positioned adjacent to or into a downstream channel of the biological mass.

Boddie teaches a collection conduit (e.g., tube 61) disposed upstream from the biological mass (e.g., cancer-involved liver) since the natural flow of blood from the liver is through the hepatic vein into the right atrium of the heart (see Fig. 3 of Boddie). Thus, placing the collection conduit upstream (e.g., within the inferior vena cava as shown in Fig. 3 of Boddie) neither teaches nor suggests placing the collection conduit adjacent to or in a downstream channel of the biological mass, as recited in Applicant's independent claims 1 and 48. Therefore, Applicant submits independent claims 1 and 48 are not anticipated by Boddie for at least the second reason that Boddie does not teach or suggest the above cited limitations of independent claims 1 and 48.

Third, independent claims 1 and 48 require a collection conduit to be positioned adjacent to or into a downstream channel of the biological mass comprising a collection seal occluding fluid flow by the collection seal, in accordance with Applicant's independent claims 1 and 48.

In making the rejection, the Patent Office appears to rely on "at least one balloon" disclosed in Boddie to show a collection conduit having a collection seal that is positioned adjacent to or into a downstream channel of the biological mass. However, the means (90) for occluding blood from flowing into the liver of Boddie is an occlusion means for occluding the hepatic artery upstream of the liver and upstream of the location of the first branch catheter (35).

Thus, the Patent Office has not identified and Applicant is unable to find any teaching in Boddie of a collection conduit having a collection seal that is positioned adjacent to or into a downstream channel of the biological mass as recited in Applicant's independent claims 1 and 48. Hence, Applicant respectfully request that the Patent Office withdraw the rejection of independent claims 1 and 48 as being anticipated by Boddie for at least this third reason.

Moreover, Applicant submits that dependent claims 2-5, 12, 13, 49-51, 53-56, 59 and 60 being dependent upon allowable base claims 1 and 48 are patentable over the cited references for at least the reasons explained above. Thus, Applicant respectfully request that the Patent Office withdraw the rejection of dependent claims 2-5, 12, 13, 49-51, 53-56, 59 and 60 under 35 U.S.C. § 102(b) as being unpatentable over Boddie.

II. Claims Rejected Under 35 U.S.C. §103(a)

The Patent Office rejects claims 6-8, 10, 11, 52, 57 and 58 under 35 U.S.C. §103(a) as being obvious over Boddie.

Claims 6-8, 10, 11, 52, 57 and 58 depend from independent claims 1 and 48, respectively. However, for the same three reasons set forth above regarding independent claims 1 and 48, Applicant asserts that independent claims 1 and 48 are not obvious in view of Boddie. Thus, Applicant submits that dependent claims 6-8, 10, 11, 52, 57 and 58 being dependent upon allowable base claims 1 and 48 are patentable over the cited references for at least the three reasons explained above.

Next, in making the obviousness rejection, the Patent Office states "it would have been obvious to incorporate a balloon as the method of occlusion for the aortic occlusion catheter since" Applicants traverse the assertion quoted above and request that the Patent Office cite a reference in support of this position in accordance with MPEP § 2144.03.

Finally, in making the obviousness rejection of claims 10-11, the Patent Office states "it would have been obvious to use the invention of Boddie to isolate and perfuse the human heart during procedures such as bypass." Applicants traverse the assertion quoted above and request that the Patent Office cite a reference in support of this position in accordance with MPEP § 2144.03.

Consequently, Applicant respectfully request that the Patent Office withdraw the rejection of dependent claims 6-8, 10, 11, 52, 57 and 58 under 35 U.S.C. § 103(a) as being obvious in view of Boddie.

III. Allowable Subject Matter

Applicant notes with appreciation the Patent Office's indication that Claim 9 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

CONCLUSION


In view of the foregoing, it is believed that all claims now pending (1) are in proper form, (2) are neither obvious nor anticipated by the relied upon art of record, and (3) are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

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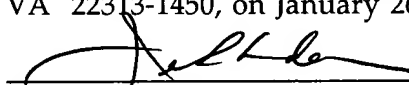
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CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 26, 2004.


Jean Svoboda